

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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RICHARD E. KAPLAN,

Plaintiff,

v.

FIRST HARTFORD CORPORATION,

Defendant.

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Civil Action No. 04-10402-NMG

**JOINT MOTION TO MODIFY SCHEDULING ORDER**

The plaintiff and the defendant jointly move the Court to modify the scheduling order in this case to provide for the completion of all fact discovery sixty (60) days after the Court's rulings on the parties' pending motions to compel the production of documents. As grounds for this motion, the parties respectfully submit the following:

1. This is an action brought by a shareholder ("Mr. Kaplan") of a publicly held corporation ("FHC") against the corporation for alleged violations of the federal securities laws. Mr. Kaplan alleges that FHC disseminated false and misleading proxy solicitation materials in connection with the call of a meeting of the shareholders in January, 2004. FHC denies Mr. Kaplan's allegations.

2. The Complaint was served on FHC in early March, 2004. FHC filed and served its Answer to the Complaint on March 29, 2004. The case was originally assigned to Judge Reginald Lindsay, who set the initial scheduling conference for May 12, 2004.

3. After the initial scheduling conference was held, the parties were notified electronically that the following schedule had been established by Judge Lindsay: "Discovery due by 10/29/2004. Motions due by 11/30/2004. Response to motions due by 1/7/05. Motions for leave to file reply briefs due by 1/18/05."

4. Each party served on the other a request for the production of documents. FHC's document request was served on the plaintiff on April 16, 2004, and was responded to by Mr. Kaplan on May 19, 2004. Mr. Kaplan's document request was served on FHC on April 21, 2004, and was responded to by FHC on May 26, 2004.

5. In late May and early June, 2004, the parties exchanged correspondence regarding alleged deficiencies in each party's responses to the respective document requests. On July 1, 2004, counsel for the parties held a Local Rule 37.1 conference, but did not fully resolve their differences with respect to some of the disputed document request responses.

6. On July 9, 2004, Mr. Kaplan filed a Motion to Compel the Production of Documents by FHC. FHC filed its opposition to Mr. Kaplan's Motion to Compel on July 23, 2004. The Court has not yet ruled on Mr. Kaplan's Motion to Compel, nor has a hearing on the motion been scheduled.

7. On August 27, 2004, FHC filed its Motion to Compel Production of Documents by Mr. Kaplan. Mr. Kaplan filed his opposition to FHC's Motion to Compel on September 10, 2004. In his opposition to FHC's Motion to Compel, Mr. Kaplan noted that both parties' motions to compel were ripe for consideration by the Court, and requested that "the Court consider ... these outstanding motions expeditiously, since the fact discovery deadline for the case currently is October 29, 2004." The Court has not yet ruled on FHC's Motion to Compel, nor has a hearing on the motion been scheduled.

8. In light of the above facts, the parties respectfully request that the schedule be modified to allow for further discovery to be undertaken after the Court has issued its rulings on the pending motions to compel.

Accordingly, the plaintiff and the defendant jointly move the Court to modify the schedule established by Judge Lindsay to provide for the completion of fact discovery sixty (60) days after the date of the Court's last ruling on the parties' pending motions to compel the production of documents, and to correspondingly extend the dates for serving dispositive motions and for serving oppositions and replies thereto.

FIRST HARTFORD CORPORATION,  
Defendant,

By its attorney,

RICHARD E. KAPLAN,  
Plaintiff,

By his attorneys,

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